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August 17, 2001

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VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* –CC Docket No. 01-138

Ms. Salas:

Z-Tel Communications, Inc. ("Z-Tel"), by its undersigned counsel, hereby submits this *ex parte* in the above-referenced proceeding in response to requests from Common Carrier Bureau Staff regarding the serious business problems created by Verizon's inability to render accurate wholesale bills to Z-Tel. This letter also addresses Staff's inquiry as to whether Verizon's performance metrics are likely to encourage Verizon to correctly fix its ongoing billing failures.

I. VERIZON'S BILLING PROBLEMS CREATE REAL ACCOUNTING AND OPERATIONAL PROBLEMS FOR Z-TEL

The core of Verizon's position in this proceeding, as set forth in its Reply Comments and its August 10, 2001 *ex parte*, rest upon one argument: that the incorrect "wholesale" bills it provides to CLECs like Z-Tel do not have an adverse impact upon the ability of CLECs to compete. That argument simply fails to reflect business reality.

To stay in business, every company – especially publicly-traded CLECs like Z-Tel – must be able to reliably predict its revenues and expenses (and, ultimately, show a profit.) For Z-Tel (and other CLECs), the *largest, single component* of our Costs of Goods Sold is composed of the elements and services provided to us by Verizon and other ILECs. Pernicious

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billing issues, like those demonstrated in Pennsylvania, wreak havoc with CLEC income statements and balance sheets and quite clearly harm the process of competitive entry.

Pursuant to standard accounting practices, when Z-Tel receives a bill from Verizon – even an incorrect one – Z-Tel must report all or a portion of that bill as a Cost of Goods Sold. As a publicly-traded company, Z-Tel is required to engage independent auditors to review Z-Tel's financial status. It is important to note that *even if* Z-Tel believes the bill is 20% inaccurate, independent financial auditors will still review the total amount invoiced and may require Z-Tel to "carry" a portion of the disputed amount as a Cost of Goods Sold.

The timeliness of resolving disputed amounts plays a significant role as to whether the disputed amount must be reported as a Cost of Goods Sold. In Z-Tel's experience, for Z-Tel to place on its books only the amount Z-Tel believes it owes Verizon (and not the amount invoiced), Z-Tel must obtain a response from Verizon within 60 days Verizon regarding the validity of a billing dispute. In addition, Z-Tel must show due diligence in pursuing the dispute. With 90 days, there must be some further correspondence stating when to expect credits if none have been issued. After this point, based on the information gathered, the auditor may determine it is necessary to account for disputed amounts as part of Z-Tel's Cost of Goods Sold or wait another 30 days to see if credit is received.

In situations such as Pennsylvania – where Z-Tel regularly disputes over 20% of its bill and these disputes are not resolved in a timely manner – the process itself quite literally makes entry into Pennsylvania less profitable for Z-Tel, under these standard accounting principles. The wholesale bill rendered by Verizon and Verizon's tardy response makes CLEC's income statements and balance sheets less attractive to investors, and clearly has an anticompetitive effect.

Verizon's arguments on this issue – that a bad "wholesale" bill does not prevent Z-Tel from invoicing its customers – fails to understand these basic business and accounting principles. Firms exist when they can expect their *revenues* to exceed their *costs*. The Commission has often recognized that ILECs like Verizon have the ability and incentive to raise the *costs* of CLEC entry. In this situation, Verizon's ability to issue consistently incorrect bills and then not respond to billing disputes literally raises the *cost* of CLEC entry.

Because Verizon is very slow to respond to and resolve billing disputes, Z-Tel has been forced to account for some disputed amounts in its Cost of Goods Sold. For example, Z-Tel entered the Pennsylvania market in May 2000, legitimately disputed significant portions of every bill received from Verizon, but was unable to obtain resolution of any disputed item during that calendar year. It was not until February 2001 that Z-Tel collected 100% of amounts previously disputed. Auditors look very poorly on billing disputes that linger for literally hundreds of days without resolution, or even a meaningful response from Verizon.

Auditing issues resulting from unresolved billing disputes also create severe negative cash flow effects. Essentially, when Z-Tel is required to account for disputed billing items as part of Cost of Goods Sold, Z-Tel cannot use these funds for other purposes. Thus, whether Z-Tel pays Verizon or withholds from Verizon disputed amounts is immaterial from an accounting perspective. Indeed, if late payment charges begin to accrue when Z-Tel does not pay the disputed amount, the amount of the bill in dispute and the Cost of Goods Sold effectively *increases* as each month passes. In the end, these funds effectively become a loan from Z-Tel to Verizon, which is particularly harmful to Z-Tel in today's financial market.

Operationally, dealing with Verizon on billing disputes is extremely difficult. As Z-Tel discussed in its Opening Comments, Z-Tel spend a disproportionate share of its billing verification personnel dealing with its Verizon – Pennsylvania bills than in other states, including New York and Massachusetts. It takes even more time to re-work the dispute when Verizon requests additional information or existing information in another format. In addition, it takes days to research Verizon's tariff and CLEC handbook for the required supporting dispute information. If Z-Tel had to devote as much effort to *all* of its ILEC wholesale bills that it does to the Verizon – Pennsylvania bills, it would have to increase its billing verification staff materially. For Verizon to claim that CLECs are not harmed by its woeful performance is laughable.

Z-Tel does not dispute that Verizon is making efforts to improve its wholesale billing processes. Indeed, Verizon seems to have quite a few "policies" (many of which articulated in the August 10 *ex parte*) that may resolve some of these issues. However, the Commission needs to make sure that these policies actually are put into practice. For example, although Verizon professes to have a "policy" of not requiring ANI- or BTN-level detail for billing disputes, its billing personnel consistently ask Z-Tel for complete ANI information, even in cases where a Verizon billing problem is common to all Z-Tel accounts.[1]

II. VERIZON'S PERFORMANCE METRICS WILL NOT INCENT VERIZON TO FIX BILLING FAILURES

Verizon's assertion that its performance metrics will identify and incent Verizon to correct billing problems is hollow. As Z-Tel has undeniably demonstrated and Verizon has admitted, credits Z-Tel has received in Pennsylvania have not been properly scored in Verizon's

[1] Attached hereto at Tab A are examples of emails received by Z-Tel from Verizon's billing organization ("billing.tisoc@verizon.com") rejecting Z-Tel billing disputes because Z-Tel did not provide ANI level detail. Z-Tel knows that Verizon has represented to the FCC that Verizon's "policies" do not require submission of ANI-level detail for billing disputes. **At a minimum**, the attached emails demonstrate that what Verizon states as its "policies" often times are flatly inconsistent with Verizon's operational practices.

billing metrics. Even Verizon acknowledges problems with its billing metric. As noted in the McLean Reply Affidavit:

> Verizon agrees that it [billing metric] is a flawed measure. In the New York Carrier-to-Carrier Guidelines, for example, this measure is not a parity measure, and is reported for diagnostic purposes only. It is not included in the New York Performance Assurance Plan.[2]

Moreover, because it takes so long for Verizon to resolve anything the billing metrics – even if eventually scored correctly – won't capture failures for many months. Verizon is in complete control of when it resolves disputes for individual companies, and can manipulate the scoring of the billing metrics accordingly.

At bottom, Verizon's billing performance metrics produce no substantive information. Indeed, the billing metrics have **never shown** anything other than stellar Verizon performance, even at the time when KPMG had identified over 60 problems with their laughably small paper bill of 110 UNE Platform accounts.

Verizon continues its efforts to obfuscate its material billing failures by asserting that because its paper and electronic bills total to almost the same amount no problems exist. This assertion cannot overcome the plain fact that when it filed its application, its electronic and paper bills were larded with overcharges totaling over 20% of the bill, and two months after filing its application, Verizon's latest bills continue to remain inflated by over 20%.

Perhaps most telling is the combination of two facts. First, Verizon has never disputed any of Z-Tel's statements regarding the size and scope of Verizon's billing failures. Second, Verizon's performance metrics reveal none of these uncontested problems.

III. PROCESSING VERIZON'S BDT BILL

Finally, Z-Tel notes that it utilizes Monarch software to process its BDT. Z-Tel receives its BDT from Verizon over Network Data Mover ("NDM"), not on CD Rom as is the case with some carriers. With the Monarch software, Z-Tel has been able to read and process the electronic bill received from Verizon.

* * *

2 McLean Reply Affidavit, ¶ 57.

In accordance with section 1.1206, an original and two copies of this *ex parte* is provided for inclusion in the public record of this proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

M. Hazzard

Michael B. Hazzard

Attachment

cc: Robert Tanner
Brent Olson
Trey Hanbury
International Transcription Service
Clint Odom, Verizon

ATTACHMENT 1

* * * REDACTED FOR PUBLIC VERSION * * *